REMARKS

In the Office Action dated May 26,2005, Claims 1-17, 23 and 27-33 are pending and are rejected. This Response addresses each of the Examiner's objections and rejections. Applicants therefore respectfully submit that the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

Claim 12 is objected to because the term "sequence" is missing. Applicants have amended claim 12 to add the term "sequence". As such, withdrawal of the objection to claim 12 is respectfully requested.

Claims 1, 4-17, 23 and 27-30 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner maintains that the specification has not adequately described resistance marker genes other than those conferring resistance to a bleomycin/phleomycin-type antibiotic, such as Zeocin, which may function in insect and prokaryotic cells.

Applicants have amended independent claim 1 to incorporate the delineation of claim 2, i.e., to define the selectable marker gene as conferring resistance to a bleomycin/phleomycin-type antibiotic. Claim 2 is therefore canceled without prejudice. The remaining claims (claims 4-17, 23 and 27-30) depend, directly or indirectly, from claim 1. Applicants reserve the right to pursue the subject matter of original Claim 1 in a continuation application.

In view of the instant amendment, the written description rejection of claims 1, 4-17, 23 and 27-30 is overcome. Withdrawal of the rejection is therefore respectfully requested.

Claim 30 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to

comply with the written description requirement.

Claim 30 is directed to a shuttle vector that contains an insect promoter, which, in turn, contains a cryptic prokaryotic promoter sequence. The Examiner alleges that the specification has not defined the term "cryptic promoter". However, the Examiner acknowledges that the specification discloses an example wherein the insect Opie2 promoter is present on a particular vector and directs expression in an *E. coli* cell. The Examiner states that there is no structure-function analysis of the Opie2 promoter regarding the essential regions of the promoter that are responsible for the cryptic prokaryotic promoter activity. The Examiner therefore concludes that the specification does not provide adequate description of the genus encompassed by the claims, i.e., the genus of insect promoters that contain a cryptic prokaryotic promoter sequence.

Applicants have amended claim 30 to clarify the term "cryptic promoter" by reciting that the cryptic promoter within the insect promoter directs the expression of the selectable maker in prokaryotic cells. Claim 30 has also been amended to further define the insect promoter as comprising SEQ ID NO: 1. SEQ ID NO: 1 represents nucleotides 130 to 693 of the Opie2 promoter region depicted in Figure 1 of Theilmann and Stewart (Virology 187: 84-96, 1992), referenced in the specification, on page 18, lines 16-17. As disclosed in the specification, a selectable marker placed under control of an Opie2 promoter is expressed in both prokaryotic cells and insect cells, evidencing the existence of a cryptic prokaryotic promoter within the Opie2 promoter. See, e.g., page 9, lines 22-23, and page 62, line 23 to page 63, line 2.[1]

[1] The Opie2 promoter on the pDM79Opie2 vector, which is described at the indicated pages of the specification, includes SEQ ID NO: 1.

Applicants respectfully submit that claim 30, as presently amended, is fully described in the specification. As such, the written description rejection of claim 30 is overcome and withdrawal thereof is respectfully requested.

Claims 1-17, 23, and 27-30 are rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite. Specifically, the Examiner has objected to the term "capable of" recited in claims 1 and 2, and the term "cryptic" recited in claim 30.

Applicants respectfully submit that claim 1 has been amended to delete the term "capable of" and to recite positively that the selectable marker is expressed in both insect cells and prokaryotic cells. Claim 2 has been canceled without prejudice. Claim 30 has been amended to clarify the term "cryptic promoter" by reciting that the cryptic promoter within the insect promoter also directs expression of the selectable marker in the prokaryotic cells.

Applicants respectfully submit that the claims, as presently amended, are not indefinite. Withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claims 31-33 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by Theilmann et al. (Virology 187: 84-96, 1992).

Claims 31-33 have been canceled without prejudice in order to expedite allowance of the present application. Applicants reserve the right to pursue the subject matter of claims 31-33 in a continuation application. Withdrawal of the rejection of claims 31-33 is therefore respectfully requested.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

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